

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER:  
SD-13-2

2. STATE:  
South Dakota

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE  
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE  
June 1, 2013

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN

☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN

☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

1902(a)(42)(b)(i) of the Act.

7. FEDERAL BUDGET IMPACT:

a. FFY 2013: \$  
b. FFY 2014: \$

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Section 4.5b, Page 36b-36c

9. PAGE NUMBER OF THE SUPERSEDED PLAN  
SECTION OR ATTACHMENT (If Applicable):

Section 4.5b, Page 36b-36c

10. SUBJECT OF AMENDMENT:

This State Plan Amendment seeks to exempt the state from establishing a Medicaid Recovery Audit Contractor Program.

11. GOVERNOR'S REVIEW (Check One):

☒ GOVERNOR'S OFFICE REPORTED NO COMMENT

☐ OTHER, AS SPECIFIED:

☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL:

*Kim Malsam-Rysdon*

13. TYPED NAME:

Kim Malsam-Rysdon

14. TITLE:

Cabinet Secretary, Department of Social Services

15. DATE SUBMITTED:

3/26/2013

16. RETURN TO:

DEPARTMENT OF SOCIAL SERVICES  
DIVISION OF MEDICAL SERVICES  
700 GOVERNORS DRIVE  
PIERRE, SD 57501-2291

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

3/26/13

18. DATE APPROVED:

11/25/13

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

6/1/13

20. SIGNATURE OF REGIONAL OFFICIAL:

*Richard C. Allen*

21. TYPED NAME:

RICHARD C. ALLEN

22. TITLE:

ARA, SMCHD

23. REMARKS:

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
1600 Broadway, Suite 700  
Denver, CO 80202-4967



**Region VIII**

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November 25, 2013

[SD 13-002: LJ]

Kirby Stone, Medicaid Director  
South Dakota Department of Social Services  
Richard F. Kneip Building  
700 Governors Drive  
Pierre, SD 57501-2291

RE: South Dakota # 13-002

Dear Ms. Stone:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 13-002. This SPA is concerning South Dakota's request for an exemption to the statutory requirement that the State implement a recovery audit contractors (RACs) program. This exemption is effective from June 1, 2013 through May 31, 2016.

We are enclosing the CMS-179 and the amended plan page(s).

If you have any questions concerning this amendment, please contact Laurie Jensen at 303-844-7126 or [Laurie.Jensen@cms.hhs.gov](mailto:Laurie.Jensen@cms.hhs.gov).

Sincerely,

Richard C. Allen  
Associate Regional Administrator  
Divisions of Medicaid & Children's Health Operations

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
 MEDICAL ASSISTANCE PROGRAM  
 State/Territory: SOUTH DAKOTA

SECTION 4. GENERAL PROGRAM ADMINISTRATION

Citation

4.5b Medicaid Recovery Audit Contractor Program

Section 1902(a)(42)(b)(i)  
 of the Social Security Act

\_\_\_\_\_ The State has established a program under which it will contract with one or more recovery audit contractors (RACs) for the purpose of identifying underpayments and overpayments of Medicaid claims under the State plan and under any waiver of the State plan.

X The State is seeking an exception to establishing such program for the following reasons:

- (1) The State maintains a low rate of errors in Medicaid payments, as evidenced by the most recent PERM review; and
- (2) The State's estimate of the potential amount of payment errors to be recovered is low based in part on relatively low Medicaid enrollment and associated expenditures such that there would not be enough revenue generated to fund an adequate enough contingency fee to attract sufficient bidding attention from vendors. In its fiscal year 2012 the State had total Medicaid expenditures of \$747,333,325 and 102,724 total Title XIX eligibles. CHIP expenditures in state fiscal year 2012 totaled \$7,228,259, with 13,007 total Title XXI eligibles.

This State Plan Amendment (SPA) will be in effect until May 31, 2016. Prior to that time, the State will analyze the 2014 PERM results and most timely Medicaid enrollment and associated Medicaid expenditures and, based on that analysis, submit to CMS either

(1) A new request for an exception; or

(2) A SPA establishing the State's RAC program.

\_\_\_\_\_ The State Medicaid agency has contracts of the type(s) listed in Section 1902(a)(42)(B)(ii)(I) of the Act. All contracts meet the requirements of the statute. RACs are consistent with the statute.

Citation 4.5b Medicaid Recovery Audit Contractor Program (continued)

Section 1902(a)(42)(B) \_\_\_\_\_ The State will make payments to the RAC(s) only from amounts  
(ii)(I) of the Act recovered.

The following payment methodology shall be used to determine State payments to Medicaid RACs for recovered overpayments (e.g., the percentage of the contingency fee):

<p>Section 1902(a)(42)(B) (ii)(II)(bb) of the Act</p>	<p>_____ The State attests that if the contingency fee rate paid to the Medicaid RAC will exceed the highest rate paid to Medicare RACs, as published in the Federal Register, the State will only submit for FFP up to the amount equivalent to that published rate.</p>
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\_\_\_\_\_ The following payment methodology shall be used to determine State payments to Medicaid RACs for underpayments:

\_\_\_\_\_ The State will submit a justification seeking to pay the Medicaid RAC(s) a contingency fee higher than the highest contingency fee rate paid to Medicare RACs as published in the Federal Register.

Section 1902(a)(42)(B) \_\_\_\_\_ The State has an adequate appeal process in place for entities to  
(ii)(III) of the Act appeal any adverse determination made by the Medicaid RAC(s).

Section 1902(a)(42)(B) (ii)(IV)(aa) of the Act	<p>_____ The State assures that the amounts expended by the State to carry out the program will be amounts expended as necessary for the proper and efficient administration of the State plan or a waiver of the plan.</p>
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Section 1902(a)(42)(B) \_\_\_\_\_ The State assures that the recovered amounts will be subject to a  
(ii)(IV)(bb) of the Act State's quarterly expenditure estimates and funding of the State's share.

<p>Section 1902(a)(42)(B) (ii)(IV)(cc) of the Act</p>	<p>_____</p> <p>Efforts of the Medicaid RAC(s) will be coordinated with other contractors or entities performing audits of entities receiving payments under the State plan or waiver in the State, and/or State and Federal law enforcement entities and the CMS Medicaid Integrity Program.</p>
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